

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In re Applications of)

WT Docket No. 13-85

MARITIME COMMUNICATIONS/LAND)

MOBILE, LLC, DEBTOR-IN-POSSESSION, *Assignor*,)

and)

File No. 0005552500

CHOCTAW HOLDINGS, LLC, *Assignee*)

FILED/ACCEPTED

For assignment of four geographic and 59 site-based Automated
Maritime Telecommunications Service (AMTS) licenses)

MAY 30 2013

In re Applications of)

Federal Communications Commission
Office of the Secretary

MARITIME COMMUNICATIONS/LAND)

MOBILE, LLC, *Assignor*,)

and)

File Nos. 0004153701
and 0004144435

SOUTHERN CALIFORNIA REGIONAL)

RAIL AUTHORITY, *Assignee*)

For change in regulatory status of a geographically
partitioned portion of the license area of Station WQGF318,
assignment of partitioned portion and related waiver requests)

TO: Marlene H. Dortch, Secretary

For transmission to the Commission

RESPONSE OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

Paul J. Feldman
Harry F. Cole
Robert Gurss

Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street -11th Floor
Arlington, Virginia 22209
703-812-0400

*Counsel for Southern California
Regional Rail Authority*

May 30, 2013

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1. Southern California Regional Rail Authority (“SCRRA”) hereby submits its Response to Comments and Petitions filed pursuant to the Public Notice, DA 13-569, released March 28, 2013 (“Public Notice”). The Public Notice invited comments on the above-captioned application (“the Choctaw Application”) to assign four geographic and 59 site-based Automated Maritime Telecommunications Service (AMTS) licenses from Maritime Communications/Land Mobile, LLC (“MC/LM”) to Choctaw Holdings, LLC (“Choctaw”). In their application, MC/LM and Choctaw seek processing pursuant to the Commission’s *Second Thursday* doctrine¹. In the second set of applications and related waiver requests (“the SCRRA Applications”) listed in the caption above² – which were filed nearly three years prior to the Choctaw Application – SCRRA proposes to acquire some of the authorizations held by MC/LM.

2. The Mayor of Los Angeles, Republican and Democratic representatives of Congress, the Association of American Railroads, Regional Transportation Commissions, even Unions have all submitted letters sounding the same clarion call to the Commission: the public interest demands prompt action to provide SCRRA the necessary spectrum as soon as possible in order to assure its ability to fully comply, now and going forward, with its statutory obligation to deploy and utilize Positive Train Control (“PTC”) technology.

3. Others have criticized or questioned the detailed operation of the proposed transaction between MC/LM and Choctaw. But despite their seeming aversion to granting *Second Thursday* relief here, both the Enforcement Bureau (“Bureau”) and Council Tree Investors, Inc. (“Council Tree”) appear to endorse prompt and favorable action on the SCRRA Applications pursuant to the “Footnote 7” approach referenced in Footnote 7 to the Hearing

¹ See *Second Thursday Corp.*, 22 FCC2d 515 (1970).

² See File Nos. 0004153701 and 0004144435.

Designation Order herein, 26 FCC Rcd 6520, n.7 (2011). SCRRA welcomes this support and restates its commitment to take whatever reasonable steps might be necessary to satisfy the Commission that immediate grant of the SCRRA Applications is in the public interest.

4. In particular, SCRRA has already agreed that the purchase price for the Spectrum will be placed into an escrow account subject to an escrow agreement submitted to the Commission, in order that alleged wrong doers do not receive a benefit from the transaction. SCRRA is committed to assuring that any consummation of its transaction conforms to Commission policy and precedent. To the extent that the Commission may choose to impose additional reasonable safeguards, SCRRA will take all appropriate steps to seek to satisfy such additional requirements.

5. The opposition of the Bureau and Council Tree to *Second Thursday* relief here suggests that that approach might prove more protracted than would a “Footnote 7” approach. *Second Thursday* would, of course, appear to afford the Commission and the parties a somewhat better-defined pathway to a global resolution of all matters pending in this proceeding.³ But if the Commission is not, for whatever reason, convinced that such a global approach is called for, SCRRA urges the Commission to take up the more limited solution offered by “Footnote 7.” To be as clear as possible: SCRRA needs to acquire the spectrum at issue in the SCRRA Applications as soon as possible in order to assure its ability to fully comply, now and going forward, with its statutory obligation to deploy and utilize Positive Train Control (“PTC”) technology. The precise procedural track taken to reach that goal is not as important to SCRRA as is its need to reach that goal as soon as possible.

³ Moreover, since SCRRA has been pressing for action on its “Showing Pursuant to Footnote 7” without success for more than two years already, it is hard to imagine that resolution pursuant to *Second Thursday* could take longer.

6. It is important to recognize that the relief sought here – whether through *Second Thursday* or “Footnote 7” – is equitable in nature. That is, the Commission is at liberty to consider a wide range of factors in determining whether it is in the public interest to approve the proposed transactions. The ultimate decisional factor in such equitable consideration must be the public interest.

7. As SCRRRA pointed out in its initial comments in response to the Public Notice, one factor of overriding public interest importance is the need to promote safety-of-life considerations. The Communications Act itself specifically directs the Commission to “promot[e] safety of life and property”. 47 U.S.C. §151. In the instant case, grant of the above-captioned applications – and particularly the applications (and related waiver requests) to which SCRRRA is a party – will unquestionably advance precisely such considerations, as Congress itself has recognized in mandating the deployment of spectrum-based Positive Train Control technology.

8. The issue of railroad safety should be of special concern to the Commission in view of recent events. In the last two weeks the U.S. has witnessed three significant train-related incidents, including derailments and collisions in Bridgeport, Connecticut, Rockview, Missouri and Baltimore, Maryland. While, thankfully, no fatalities have occurred in any of these incidents to date, and while it is not clear at this point whether PTC might have prevented these incidents, they nonetheless serve to remind us all of the overwhelming destruction and disruption that can occur on the rail lines. By mandating deployment of PTC technology, Congress took an aggressive and important step toward reducing that potential for destruction and disruption. By impeding that deployment – as it has by failing to act on the SCRRRA Applications for more than three years already – the Commission has frustrated Congress and threatened the safety of

countless Americans. In view of the recent unfortunate spate of railroad-related incidents, it is difficult to imagine a more forceful prod for *immediate* agency action than the need to protect citizens and property as Congress has dictated.

9. Accordingly, SCRRA reminds the Commission, again, that the longer the Commission delays in acting on the SCRRA Applications, the more it flouts the will of Congress and unnecessarily impedes SCRRA's ability to take statutorily-mandated steps designed to enhance the safety and well-being of the American public. SCRRA urges the Commission, again, to grant the SCRRA Applications as soon as possible.

Respectfully submitted,

/s/ Harry F. Cole
Harry F. Cole

Paul J. Feldman
Harry F. Cole
Robert Gurss

Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street -11th Floor
Arlington, Virginia 22209
703-812-0400

*Counsel for Southern California
Regional Rail Authority*

May 30, 2013

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 30th day of May, 2013, I caused copies of the foregoing "Response of Southern California Regional Rail Authority" to be (a) filed electronically through the FCC's Electronic Comment Filing System and (b) placed in the U.S. mail, first class postage prepaid, or transmitted by facsimile or email (as indicated below), addressed to the following:

Roger Noel, Chief
Jeffrey Tobias
Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
(Courtesy Copy – by email
Jeff.Tobia@fcc.gov)

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
(Courtesy Copy - by email
Richard.Sippel@fcc.gov)

Austin K. Randazzo
Attorney-Advisor/Law Clerk
Office of the Administrative Law Judges
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

P. Michele Ellison, Chief
Pamela Kane, Esquire
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554
(by email – Michele.Ellison@fcc.gov)

Robert J. Keller, Esq.
Law Offices of Robert J. Keller, P.C.
PO Box 33428
Washington, D.C. 20033
Counsel for Maritime
Communications/Land Mobile, LLC

Charles A. Zdebski
Gerit F. Hull
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Counsel for Duquesne Light Company

Jack Richards
Wesley K. Wright
Keller & Heckman LLP
1001 G Street, N.W. – Suite 500 West
Washington, D.C. 20001
Counsel for Atlas Pipeline Mid-Continent,
LLC, DCP Midstream, LP, Enbridge Energy
Company, Inc., Encana Oil & Gas (USA) Inc.
and Jackson County Rural Electric
Membership Cooperative

Jeffrey L. Sheldon
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, N.W., Suite 900
Washington, D.C. 20036
Counsel for Puget Sound Energy, Inc.

Al Catalano
Matthew J. Plache
Catalano & Plache, PLLC
3221 M Street, N.W.
Washington, D.C. 20007
Counsel for Dixie Electric Membership
Corporation, Inc. and Pinnacle Wireless Corp.

Dennis C. Brown
8124 Cooke Court
Manassas, Virginia 20109
Counsel for Maritime Communications/
Land Mobile LLC

Robert G. Kirk
J. Wade Lindsay
Mary N. O'Connor
Wilkinson Barker Knauer, LLP
2300 N Street, N.W., Suite 700
Washington, D.C. 20037
Counsel for Choctaw Telecommunications,
LLC and Choctaw Holdings

Warren Havens
2509 Stuart Street
Berkeley, California 94705

/s/ Harry F. Cole
Harry F. Cole